UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION DOCKET NO. 5:15-cy-00131-MOC

| STEVE SILVA, |) | |
|---|-------------|-------|
| Plaintiff, |) | |
| Vs. |) | ORDER |
| CAROLYN W. COLVIN, Acting Commissioner of Social Security, |))) | |
| Defendant. |) | |

and Defendant's Motion for Summary Judgment (#22). The matter has been fully briefed and is ripe for review. Having carefully considered such motions and reviewed the pleadings, the court finds that while both parties have presented strong arguments regarding the alleged deficiencies in the ALJ's assessment of Plaintiff's mental impairments as they relate to his claims of disability, additional briefing would greatly benefit the court in resolution of this matter.

Specifically, the court is interested in the parties' contentions as to what effect, if any, the Fourth Circuit's decision in Mascio v. Colvin, 780 F.3d 632 (4th Cir. 2015) has on the ALJ's decision here. The court notes that the Mascio decision has resulted in a significant increase in the number of social security cases remanded to the Commissioner for additional proceedings in this district. Having become familiar with the central issues addressed in Mascio, including an ALJ's failure to conduct a function-by-function analysis in formulating a claimant's RFC in accordance with SSR 96-8P, 1996 WL 374184, the court is concerned that such issues may be present here, yet are not addressed by the parties' briefs. The court will therefore order the parties to provide

supplemental briefs on whether any holdings of Mascio, which are binding on this court, should

guide this court's decision.

The court notes that this Order should not be construed as an opportunity for Plaintiff to

assert novel and additional theories of error, but only as a means for him to address any potential

arguments that it believes the court should consider under the binding precedent resulting from

Mascio. Additionally, if the parties are in agreement that Mascio is inapplicable to the facts of

this case, they should so state on the record.

ORDER

IT IS, THEREFORE, ORDERED that Plaintiff file a supplemental brief addressing

those issues discussed herein within 14 days of this Order. Commissioner shall have 14 days

from such filing to file a responsive supplemental brief. There will be no reply.

Signed: March 17, 2016

Max O. Cogburn J.

United States District Judge

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